

FAX COVER SHEET**Nixon & Vanderhye PC**

ATTORNEYS AT LAW
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TO: Richard M. Ross, Esq.
FIRM: UNITED STATES PATENT AND TRADEMARK OFFICE
FAX NO: 703.308.6459
DATE: March 1, 2004
FROM: Bryan H. Davidson
PAGES: 11 (including this cover page)

RECEIVED
01 MAR 2004

Legal Staff
International Division

Serial No: 10/009,304
Atty. Dkt No.: 1858-30

MESSAGE

Mr. Ross,

Attached is a formal reply to your Communication dated February 23, 2004, along with all supporting documentation. Please call me once you have had an opportunity to review this matter so I may inform my client as to the status of the application.

Sincerely,
Bryan H. Davidson
Reg. No. 30251
Direct Dial: (703)816-4026

CONFIDENTIALITY NOTE

The documents accompanying this facsimile transmission contain information belonging to Nixon & Vanderhye, which is confidential and/or legally privileged. This information is only intended for the use of the individual or entity named above. IF YOU ARE NOT THE NAMED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, COPYING, DISTRIBUTION OR TAKING OF THIS INFORMATION FOR ANY USE WHATSOEVER IS STRICTLY PROHIBITED. If you have received this facsimile in error, please immediately contact us by telephone to arrange for return of the original documents to us.

FILED VIA FACSIMILE – (703)308-6459**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

HARUNA et alSerial No. **10/009,304**Atty. Ref.: **1858-30**Group: **(Unknown)**National Phase of: **PCT/JP00/03912**International Filing Date: **June 15, 2000**Filed: **September 26, 2002**Examiner: **(Unknown)**For: **NUCLEATING AGENT**

* * * * *

November 18, 2003

Assistant Commissioner for Patents
Washington, DC 20231**ATTN: Richard M. Ross, Esq.**
PCT Petitions Attorney
PCT Legal Office**RESPONSE TO COMMUNICATION DATED FEBRUARY 23, 2004 OR ALTERNATIVELY
PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION**

Sir:

I. RESPONSE TO COMMUNICATION DATED FEBRUARY 23, 2004

This paper is being filed in response to the "Communication" dated February 23, 2004. Specifically, the Petitions Examiner helpfully noted that the official record file in the Office did not, as of the date of the Communication, contain a response to the Decision dated May 19, 2003. A formal response to the Decision dated May 19, 2003 was in fact filed, however, on November 18, 2003.

A true and accurate copy of the response filed on November 18, 2003 is attached hereto. That the Office actually received the response on November 18, 2003 is evidenced by the accompanying copy of the undersigned's post card filing receipt. In addition, the Examiner will note that the November 18, 2004 response was filed along with a time extension petition of four (4) months from the nominal due date of July 19,

HARUNA et al
Serial No. 10/009,304

2003 and the appropriate fee in the amount of \$1,480.¹ A copy of our firm's cancelled check covering the extension fee which accompanied the November 18, 2003 response is also attached.

Therefore, in view of the evidence provided herewith, it is suggested that all outstanding issues have been resolved and official notice to that effect is awaited.

II. ALTERNATIVE PETITION UNDER 37 CFR §1.137 TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION

In order to ensure consideration of this application, applicants' undersigned attorney hereby petitions in the alternative to revive the subject application under 37 CFR §1.137(b). In this regard, the entire delay in filing the reply to the Decision dated May 19, 2003 until the filing of a grantable petition pursuant to Rule 137 was unintentional.

III. FEE AUTHORIZATION

It does not appear that any fees are required in order for the Examiner to consider this response to the Communication dated February 23, 2004.

However, in the event that a formal petition to revive the subject application for unintentional abandonment, or any other fee is deemed necessary in order for the Office to further act in this application, the Commissioner is hereby authorized to charge the petition fee required by Rule 137(b)(2) and/or any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our **Account No. 14-1140**.

¹ The undersigned notes that extensions of time under 37 CFR §1.136(a) were available since none of the exceptions in 37 CFR § 1.136(a)(i)-(v) apply in this particular case.

HARUNA et al
Serial No. 10/009,304

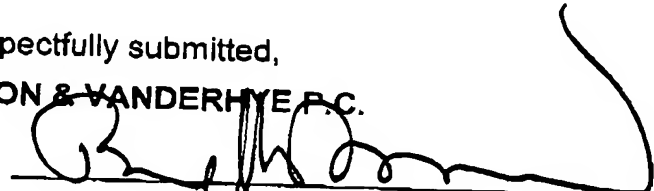
IV. CONCLUSION

An early and favorable reply is awaited. Should any small matter need to be resolved, however, the Petitions Examiner is encouraged to telephone the undersigned to explore the most expeditious manner of addressing the same.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By:



Bryan H. Davidson

Reg. No. 30,251

BHD:Imy

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Arlington, VA 22201-4714
Telephone: (703) 816-4000
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COPY

S:

A Serial No.: 10/009,304

C#/M#: 1858-30

T Inventor/s: HARUNA et al

Atty: Bryan H. Davidson

Title: NUCLEATING AGENT

Date: November 18, 2003

- ☒ Address Indication Form
- ☐ Amendment
- ☐ Pages Specification, Claims & Abstract
- ☐ Claims; Sheets of Drawings
- ☒ Declaration (2 Pages)
- ☐ Assignment (Pages) Including Cover
- ☒ Base Issue Fee Transmittal
- \$ Fee (Check) - Pre-Bill
- \$1,480.00 Fee (Check) - Non Pre-Bill



Pre-Bill -	\$
Non Pre-Bill -	\$ <u>1,480.00</u>
TOTAL -	\$ <u>1,480.00</u>

\$1480.00 = Total Fee Enclosed

- Other: Response to Decision on Petitions Dated May 19, 2003, and Renewed Petition Under 37CFR §1.42 with Petition to Extend Current Due Date



NIXON & VANDERHYE, P.C.
PTO ACCOUNT
1100 N. GLEBE ROAD, 8TH FLOOR
ARLINGTON, VA 22201-4714

80336

PAY
TO THE
ORDER OF

HON. COMMISSIONER OF PATENTS AND TRADEMARKS

DATE Nov. 18, 2003

88-111-550

Fourteen hundred eighty and ⁰⁰/₁₀₀ \$1480.00

DOLLARS

1358-30				

THIS CHECK IS DELIVERED FOR PAYMENT ON THE ACCOUNTS LISTED

⑈00080336⑈ ⑆056001118⑆ 0501 4778⑈

⑈0000148000⑈

Account:5139088230
CheckAmt: 1480.00
SerialNum:80336
PostDate:20031124
ItemSeqNu:31000332
ProcDate:11/24/2003
TrRoutNum:0
TracerNum:302
TransCode:0

COPY

053101211 8817 #2978
2501 MOORE BLVD PRT006
WILSON NC 27693 11242003
31000000332

J209 26011

Account:5139088230
CheckAmt: 1480.00
SerialNum:80336
PostDate:20031124
ItemSeqNu:31000332
ProcDate:11/24/2003
TrRoutNum:0
TracerNum:302
TransCode:0

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

HARUNA et alSerial No. **10/009,304**Atty. Ref.: **1858-30**Group: **(Unknown)**National Phase of: **PCT/JP00/03912**International Filing Date: **June 15, 2000**Filed: **September 26, 2002**Examiner: **(Unknown)**For: **NUCLEATING AGENT**

* * * * *

November 18, 2003

BOX PCTAssistant Commissioner for Patents
Washington, DC 20231**ATTN: International Division, Legal Staff****COPY****RESPONSE TO DECISIONS ON PETITIONS DATED MAY 19, 2003, AND
RENEWED PETITION UNDER 37 CFR §1.42**

Sir:

This paper is being filed in response to the "Decision on Petitions to Vacate Abandonment and Under 37 CFR 1.42 and 27 CFR 1.47(a)" dated May 19, 2003 ("Decision"), which set a nominal response due date of July 19, 2003.

I. PETITION FOR EXTENSION OF TIME

Petition is hereby made for an extension of time from the nominal response due date of July 19, 2003, for four (4) months up to, and including, November 19, 2003. The appropriate extension fee under 37 CFR §1.17 is attached.

II. RENEWED PETITION UNDER 37 CFR §1.42

Applicants hereby renew the petition under 37 CFR §1.42 due to the death of the inventor, Masayuki TAKAHASHI. In addition, as will be explained below, the factual basis on which the Decision was reached have fundamentally changed so as to render the Decision moot.

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Specifically, the undersigned has been informed that the deceased inventor's wife and sole heir at the time of the Decision, Ms. Yuko Takahashi, passed away on or about June 27, 2003. At present, the sole heirs of the deceased inventor's estate are his three children, Mr. Tetsuya Takahashi, Ms. Kaori Takahashi and Ms. Sayuri Takahashi ("the Takahashi children").

Attached hereto therefore is a Declaration under 37 CFR §1.63 which has been executed by the surviving inventor, Mr. Tohru HARUNA and each of the Takahashi children as sole heirs of their father's estate and on behalf of their deceased father, Masayuki TAKAHASHI.¹ An unequivocal statement to that effect appears in the body of the Declaration immediately prior to the signature blocks for each of the Takahashi children.

In view of the fundamentally changed circumstances described above, therefore, it is believed that all issues raised in the Decision have been rendered moot and that this application is in good order for acceptance under the provisions of Rule 42. Such favorable action is solicited.

III. FEE AUTHORIZATION

It is believed that all fees required to be submitted with this paper have been attached hereto.²

However, in the event that any fee is deemed necessary in order for the Office to act on this petition, the Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our **Account No. 14-1140**.

¹ It will be observed that all pertinent information including the deceased inventor's citizenship and last address appears on the accompanying Declaration as well.

² The penultimate paragraph on page 4 of the Decision notes that no additional petition fee is required.

HARUNA et al
Serial No. 10/009,304

IV. CONCLUSION

An early and favorable reply to this petition is awaited. Should any small matter need to be resolved, however, the Petitions Examiner is encouraged to telephone the undersigned to explore the most expeditious manner of addressing the same.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 

Bryan H. Davidson

Reg. No. 30,251

BHD:lmv

1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

1858-30

Nixon & Vanderhye P.C. (10/99)
(Domestic Non-Assigned/Foreign) Page 1

RULE 63 (37 C.F.R. 1.63)
INVENTORS DECLARATION FOR PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

As a below named inventor, I hereby declare that my residence, mailing address and citizenship are as stated below next to my name, and I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

the specification of which (check applicable box(es)):
☐ is attached hereto
☒ was filed on December 7, 2001 as U.S. Application Serial No. 09/009,304 (Atty. Dkt. No. 1858-30)
☒ was filed as PCT International application No. PCT/JP00/03912 on June 15, 2000
 and (if applicable to U.S. or PCT application) was amended on

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose to the Patent Office all information known to me to be material to patentability as defined in 37 C.F.R. 1.56. I hereby claim foreign priority benefits under 35 U.S.C. 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed or, if no priority is claimed, before the filing date of this application:

Application Number
HEI 11-188864

Country
Japan

Day/Month/Year Filed
June 15, 1999

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below.
 Application Number _____ Date/Month/Year Filed _____

I hereby claim the benefit under 35 U.S.C. 120/365 of all prior United States and PCT international applications listed above or below:

Prior U.S./PCT Application(s):
Application Serial No.

PCT/JP00/03912

Day/Month/Year Filed
June 15, 2000

Status: patented
pending, abandoned

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon. And on behalf of the owner(s) hereof, I hereby appoint Nixon & Vanderhye P.C., telephone number 703-816-4000 (to whom all communications are to be directed) and the attorneys of, **Customer Number 23117**, individually and collectively owners'/owners' attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith and with the resulting patent. I also authorize Nixon & Vanderhye to add or delete attorneys from that Customer Number, and to act and rely solely on instructions directly communicated from the person, assignee, attorney, firm, or other organization sending instructions to Nixon & Vanderhye on behalf of the owner(s).

1. Inventor's Signature: Tohru Haruna Date: November 11, 2003
 Inventor: Tohru (first) HARUNA (last) Japan (citizenship)
 Residence (city): Okegawa-shi, Saitama MI (state/country)
 Mailing Address: 969-4, Shimohideya, Okegawa-shi, Saitama, Japan
 (Zip Code) 363-0025

2. Inventor's Signature: (Deceased) Date: _____
 Inventor: Masayuki (first) TAKAHASHI (last) Japan (citizenship)
 Residence (city): Tokorozawa-shi, Saitama MI (state/country)
 Mailing Address: Forasutawa-Tokorozawa 28-9-801, Motomachi, Tokorozawa-shi, Saitama, Japan
 (Zip Code) 359-1121

See attached sheet containing additional information
pertaining to sole heirs-in-law of deceased inventor
Masayuki Takahashi.

1858-30

Serial No. 10/009,304

Page 2

Nixon & Vanderhye P.C. (10/99)
(Domestic Non-Assigned/Foreign)

The following individuals represent that they collectively are the sole heirs-in-law of the estate of their deceased father, Masayuki TAKAHASHI, whose addresses and citizenship appear beside their respective names, and are executing this Declaration on behalf of their deceased father and inventor, Masayuki TAKAHASHI:

3. Inventor's Signature: Tetsuya TAKAHASHI Date: November 9, 2003
Inventor: Tetsuya (first) TAKAHASHI (last) (Son) Japan
Residence: (city) Tokorozawa-shi, Saitama MI (state/country) Japan (citizenship)
Mailing Address: Forasutawa-Tokorozawa 28-9-801, Motomachi, Tokorozawa-shi, Saitama, Japan
(Zip Code) 359-1121
4. Inventor's Signature: Kaori TAKAHASHI Date: November 9, 2003
Inventor: Kaori (first) TAKAHASHI (last) (Daughter) Japan
Residence: (city) Tokorozawa-shi, Saitama MI (state/country) Japan (citizenship)
Mailing Address: Forasutawa-Tokorozawa 28-9-801, Motomachi, Tokorozawa-shi, Saitama, Japan
(Zip Code) 359-1121
5. Inventor's Signature: Sayuri TAKAHASHI Date: November 9, 2003
Inventor: Sayuri (first) TAKAHASHI (last) (Daughter) Japan
Residence: (city) Tokorozawa-shi, Saitama MI (state/country) Japan (citizenship)
Mailing Address: Forasutawa-Tokorozawa 28-9-801, Motomachi, Tokorozawa-shi, Saitama, Japan
(Zip Code) 359-1121

FAX COVER SHEET**Nixon & Vanderhye PC.**

ATTORNEYS AT LAW
1100 NORTH GLEBE ROAD, SUITE 800
ARLINGTON, VIRGINIA 22201-4714

TELEPHONE: 1-703-816-4000
FACSIMILE: 1-703-816-4100

TO: Richard M. Ross, Esq.
FIRM: U.S. Patent and Trademark Office
FAX NO: 703.308.6459
DATE: March 1, 2004
FROM: Bryan H. Davidson
PAGES: 4 (including this cover page)

Serial No.: 10/009,304
Atty. Dkt. No.: 1858-30

MESSAGE

RECEIVED
01 MAR 2004
Legal Staff
International Division

Mr. Ross,

I just noticed that the Response to your 2/23/04 Communication faxed to you earlier had an incorrect date on its first page. A corrected Response is attached. I would appreciate your substituting it for the one just faxed to you.

Sincerely,
Bryan H. Davidson

CONFIDENTIALITY NOTE

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FILED VIA FACSIMILE – (703)308-6459**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

HARUNA et alAtty. Ref.: **1858-30**Serial No. **10/009,304**Group: **(Unknown)**National Phase of: **PCT/JP00/03912**International Filing Date: **June 15, 2000**Filed: **September 26, 2002**Examiner: **(Unknown)**For: **NUCLEATING AGENT**

* * * * *

March 1, 2004

Assistant Commissioner for Patents
Washington, DC 20231**ATTN: Richard M. Ross, Esq.**
PCT Petitions Attorney
PCT Legal Office**RESPONSE TO COMMUNICATION DATED FEBRUARY 23, 2004 OR ALTERNATIVELY
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Sir:

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HARUNA et al
Serial No. 10/009,304

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¹ The undersigned notes that extensions of time under 37 CFR §1.136(a) were available since none of the exceptions in 37 CFR § 1.136(a)(i)-(v) apply in this particular case.

HARUNA et al
Serial No. 10/009,304

IV. CONCLUSION

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Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 

Bryan H. Davidson

Reg. No. 30,251

BHD:lmy

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Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100